

**§ 592.311 United States.**

The term *United States*, when used in the geographic sense, means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

**§ 592.312 United States person; U.S. person.**

The term *United States person* or *U.S. person* means any United States citizen; any alien admitted for permanent residence into the United States; any entity organized under the laws of the United States or any jurisdiction within the United States (including its foreign branches); or any person in the United States.

**Subpart D—Interpretations****§ 592.401 Reference to amended sections.**

Except as otherwise specified, reference to any provision in this part or chapter or to any other regulation refers to the same as currently amended.

**§ 592.402 Effect of amendment.**

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, or instruction issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, or instruction continue and may be enforced as if such amendment, modification, or revocation had not been made.

**§ 592.403 Transshipment or transit through the United States.**

The prohibitions in § 592.201 apply to the importation into, or exportation from, the United States, for transshipment or transit, of any rough diamond intended or destined for any country other than the United States, unless the shipment is sealed in a tamper-resistant container, accompanied by a Kimberley Process Certificate,

and leaves the United States in the identical state in which it entered. The validation, recordkeeping, and reporting procedures applicable to importations and exportations do not apply in this case.

**§ 592.404 Importation into or release from a bonded warehouse or foreign trade zone.**

The requirements of the Kimberley Process Certification Scheme apply to all imported shipments of a rough diamond, regardless of whether they are destined for entry into, or withdrawal from, a bonded warehouse or a foreign trade zone of the United States.

**Subpart E—Records and Reports****§ 592.501 Records and reports.**

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

**§ 592.502 Annual reports by rough diamond importers and exporters.**

(a) *Requirement for reports.* Reports shall be filed annually, by April 1 of each year, covering the preceding calendar year (January 1–December 31), except the first annual report, covering the period January 1–December 31, 2007, shall be filed by September 1, 2008.

(b) *Who must report; reporting period.* All persons who import rough diamonds into the United States or export rough diamonds from the United States during the reporting period (January 1–December 31).

(c) *What must be reported.* The report need not be in any specified format but must include the following information:

(1) The contact information of the U.S. importer or exporter, including name, address, telephone number, fax number, and e-mail address;

(2) Identification of total import and/or export activity for each of the three Harmonized Tariff Schedule classifications of rough diamonds during the reporting year, including:

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(A) Total amount of carats of each classification of rough diamonds imported and/or exported; and

(B) Total of all shipments of each classification of rough diamonds imported and/or exported.

(3) Information on stockpiles of rough diamonds, if any, for each of the three Harmonized Tariff Schedule classifications, as of the end of the reporting year, reported in both total carats and approximate total value. For the purposes of this section, stockpiles are defined as the amount of rough diamonds held unsold at the end of the reporting period.

(d) *Where to send report.* Reports must be filed with the Office of the Special Advisor for Conflict Diamonds, U.S. Department of State via e-mail at [USKimberleyProcess@state.gov](mailto:USKimberleyProcess@state.gov). For further information, please call that office at 202/647-1713.

(e) *Failure to file report.* Any importer or exporter who fails to file a required report shall be subject to the penalties set forth in Subpart F of this part.

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## Subpart F—Penalties

### § 592.601 Penalties.

(a) Attention is directed to section 8 of the Clean Diamond Trade Act (the “Act”) (Pub. L. 108–19), which provides that:

(1) A civil penalty not to exceed \$10,000 per violation may be imposed on any person who violates, or attempts to violate, any order or regulation issued under the Act;

(2) Whoever willfully violates, or willfully attempts to violate, any order or regulation issued under this Act shall, upon conviction, be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who willfully participates in such violation may be punished by a like fine, imprisonment, or both; and

(3) Those customs laws of the United States, both civil and criminal, including those laws relating to seizure and forfeiture, that apply to articles imported in violation of such laws shall

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apply with respect to any rough diamond imported in violation of the Act.

NOTE TO PARAGRAPH (a). As reflected in paragraphs (a)(1) and (2) of this section, section 8(a) of the Clean Diamond Trade Act (Pub. L. 108–19) establishes penalties with respect to any violation of any regulation issued under the Act. OFAC prepenalty, penalty, and administrative collection procedures relating to such violations are set forth below in §§ 592.602 through 592.605. Section 8(c) of the Act also authorizes the U.S. Bureau of Customs and Border Protection and the U.S. Bureau of Immigration and Customs Enforcement, as appropriate, to enforce the penalty provisions set forth in paragraph (a) of this section and to enforce the laws and regulations governing exports of rough diamonds, including with respect to the validation of the Kimberley Process Certificate by the U.S. Bureau of the Census. The Office of Foreign Assets Control civil penalty procedures set forth below are separate from, and independent of, any penalty procedures that may be followed by the U.S. Bureau of Customs and Border Protection and the U.S. Bureau of Immigration and Customs Enforcement in their exercise of the authorities set forth in section 8(c) of the Clean Diamond Trade Act.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

### § 592.602 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any regulation or order issued